

Hawaiian Gazette

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TUESDAY, JANUARY 3, 1893.

THE JUDICIARY ACT.

[SECOND NOTICE.]

All appeals upon questions of law, exceptions and similar matters will go before the Supreme Court.

The Supreme Court will consist of three justices, as at present. The justices now holding office by the law will continue to exercise the functions of the Supreme Court as set forth in the Act. Their jurisdiction includes the power to issue writs of mandamus, certiorari, prohibition, habeas corpus, etc., and generally the powers of the Court are about as at present, excepting original hearings. The terms of the Supreme Court are to be held in Honolulu, four times each year, beginning the third Mondays of March, June, September and December. Special terms may also be held and the terms may continue for eighteen days.

An important provision of the law is that no one can be compelled to go to a hearing except before a full bench. In case of the inability of any justice to attend on account of sickness, absence or disqualification for any reason, his place may be filled for the time being by any of the Circuit Judges or by any competent and disinterested member of the bar. Whenever points in any case arise which might decide the question which have not been argued, the matter shall not be decided until both sides have an opportunity for arguing such new point.

The matter of clerks for the Judiciary Department is well arranged by the new Act, which provides for a clerk of the Judiciary Department and as many deputy clerks as the business may require. This makes all of the clerks in each circuit accountable and responsible to the chief clerk, whose office is in Honolulu; but clerks of the Circuit Courts may be removed for cause by the respective judges of such circuits.

Careful provision is made for accurate records of the business of the Court, which, if carried out, will provide for better statistics than have heretofore been available.

The matter of appeals and exceptions is also carefully provided for, the rights of parties being well guarded.

The original Act presented by the Commission was changed in some more or less important details by consultations of the Judiciary Committee of the present Legislature with members of the Bar, and afterwards by amendments in the House. It was provided that all of the terms of the Second Circuit should be held in Wailuku, which is unquestionably in the interest of all parties concerned, but the principle of "you tickle me and I'll tickle you" is too strong in the House for this sensible provision to carry, in consequence of which a term of the Second Circuit is continued at Lahaina. Something of the same principle probably permitted the change on Hawaii, which put one term in Kohala and another in Honokaa, but it is quite possible that the change may be in the interest of all parties concerned as Waimea is a lonely, quiet town removed from the centers of population, but it may require the building of new court houses and jails, and certainly Kohala is pretty well removed from Kau, while Honokaa is a place difficult of approach until a railroad shall have been built to Hilo, and there are no houses of public resort.

A careful examination of the above extracts from the Act will indicate the principal changes in the law, which will be interesting to the public who require the assistance of the Courts from time to time.

Since the passage of the above Act, one or two laws have been passed in the Legislature making some amendments, the most im-

portant of which takes the appointment of the Magistrates from the Cabinet and Supreme Court and places it with the Cabinet and Sovereign. Perhaps this change will not injure the service, but it is a return to a system which was so pernicious under the old regime that the law was passed making the Magistrates more directly amenable to the Supreme Court by giving said Court a voice in their appointment.

Another important Act has been passed relating to jury trial and to the drawing of juries. As the Judiciary Act has been bound in pamphlet form for easier and more rapid distribution, it would have been well if the other important Acts, relative to trials, could have been bound at the same time for like distribution, for it is yet in the indefinite future as to when the laws of the session will ever be published.

THE PANAMA SCANDAL.

The news from France in regard to the Panama scandal is somewhat disquieting and seems to indicate the approach of a political crisis. With every fresh day fresh discoveries are made, drawing new individuals into the great web of fraud which the Canal Co. seems to have woven around newspapers, public officials, and members of the Chamber. The venality of the Paris press is well known and nothing surprises about their dishonest collusion except the smallness of the bribes which were accepted. The idea was generally entertained that de Lesseps himself was not implicated in any of the dishonorable transactions of the company, but it is now stated that he is to be prosecuted as well as one of his sons. Admirers of the famous engineer everywhere will hope that his fame may be cleared from every imputation of a stain, as was that of General Grant, on a similar occasion.

The crisis in French politics is due in a large measure not so much to the Panama scandal as to the alarming growth of social discontent, which has found expression, of late, in an increasing number of outrages. It would be a mistake to infer that the body of the French people were infected with the poison of crazy social theories. Such is by no means the case. The French bourgeoisie is industrious, prudent and prosperous, and can muster as much common sense per capita as the middle class of any country in Europe. It is Paris which is the centre of anarchistic agitation as it has been of every revolutionary movement since 1789, and the activity of these elements is simply a fresh illustration of the unhealthy predominance of the capital in French politics. The republic in France is considered stronger and safer than it has ever been before, and we do not believe that it is seriously imperilled by the present emergency. The real issue there as elsewhere is no longer between the Republic and the Monarchy, but between the "fourth estate" and the classes above it. Socialists are very indifferent to the form of government. What they are interested in is the re-organization of society, and the irrepressible conflict of the future will be waged about the latter only. The elements of this conflict are immanent in the industrial conditions of the age, and are little affected by forms of government. Paris is the barometer of Europe, and registers before Berlin or St. Petersburg or London the indications of the coming storm. But this exhausts its function, and those who know the French character do not believe that the nation stands as good a chance to weather the gale as Germany or England.

One of the worst features of political life in Hawaii is the constant emergence of the race idea. Appeals to it in one form or another are made twenty times a day, and with a few rare exceptions, none of the foreign members of the House have the courage to ignore the color line. The bill in

regard to school-teachers, which has just passed its second reading, is an illustration of the feeling of jealousy of the foreigner which comes to the surface on every possible occasion. We believe fully in the principle of employing Hawaiians in the public schools, whenever it is feasible, and will be only too glad to see the places of incapable or unworthy foreigners filled by most deserving sons of the soil. The principle is one, however, which the Board bears constantly in mind, making application of it whenever possible; and the attempt to limit their choice in the lower grades to kamaainas only is, in the last degree, inexpedient and absurd.

REP. NAWAHI interrogated the Ministers Friday with regard to the failure of Her Majesty to sign the bill relating to Chinese Immigration. Article 48 of the Constitution provides that a bill shall become law without the signature of the Sovereign if it be not returned to the House within ten days. This is just as regular and legitimate a way of allowing an Act to become a law as though it received the Royal signature, and there does not seem to be any occasion to propound questions about it. The Sovereign, by allowing a bill to lapse in the manner indicated does not obstruct the course of legislation, or interfere in any way with the expression of the popular will, and there is no reason why she should be compelled to affix her signature to an Act which she does not approve, as long as her signature is not indispensable. Indeed, we are disposed to commend the action of Her Majesty in this instance. It is a natural method of expressing her personal dissatisfaction with measures which she does not happen to approve, and it should be used instead of the veto for that purpose.

THE House passed Thursday the bill raising the duty on spirits from \$3 to \$3.50 per gallon. This is one of the best bills of the session, and a large additional revenue is expected from it. It is a well recognized principle all over the world that the liquor business should be taxed as heavily as it will bear, and Noble Cornwell, who opposed the bill for some unknown reason, committed a strange eccentricity when he called for the ayes and noes.

THE Minister of Finance has been compelled to introduce still another bill "to further defray" the expenses of the Legislative Session, and perhaps another will be necessary before prorogation day comes. Rep. NAWAHI seems to regard it as a distinction for this body that it will go down to history as a legislature which talked more, cost more and did less than any other in the annals of Hawaii.

THE House has at last made up its mind to the necessity of night sessions. These are doubtless necessary, but a better way to shorten the session would be to discourage the endless and unnecessary discussions and adopt a further limit on debate.

Sunday School Exercises.

Last evening the Kaunakapili Sunday School held special exercises which proved to be very interesting and enjoyable. Mrs. Dillingham distributed rosettes and picture cards to the scholars as rewards of merit for faithful attendance. Besides songs and recitations, the little ones were amused by gazing on a lighthouse, which threw out a blaze of light. The church was darkened for this portion of the entertainment and the effect was beautiful and startling.

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